

The Legislative Approach to the Crime of Bribery in the Private Sector and Corruption

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Abstract

Corruption is an individual behaviour and a social phenomenon that requires the intervention of many sciences in order to confront this phenomenon. Therefore, the law intervenes in this area by virtue of its role in confronting this phenomenon from the preventive and deterrent side. The UN Convention against Corruption is the first to criminalize bribery in the private sector under Article 21 of the Convention, As long as Algeria has ratified this Convention, it had to adopt it in its domestic laws, The legislator has then followed suit and introduced this type of offense in Law No. 06-01, The Anti-Corruption Prevention and Control Act contained a very special provision Given the characteristics of bribery in the private sector, Although the elements of the crime of bribery in the private sector provided for in Article 40 of the Prevention and Combating of Corruption Law do not differ from the bribery of public officials, except as a perpetrator in the form of passive bribery.

Key words : Corruption - Bribery - Criminalization - Presumed Element - Private – Public.

Introduction:

Corruption is both an individual behavior and a societal phenomenon that necessitates intervention from various entities to confront this issue. It may lead some members of society to engage in actions aimed at personal gain, despite conflicting with the public interest, the general principles upon which society is built, and its core values. To eradicate this societal phenomenon, it has become imperative for a range of disciplines to collaborate in achieving a singular goal: analyzing this phenomenon, understanding its causes, and subsequently addressing it. Among these disciplines, legal sciences play a significant role. Consequently, law intervenes in this domain by addressing corruption from both preventive and deterrent perspectives to mitigate the phenomenon, as its complete eradication is unrealistic. Human nature, as

observed through historical analysis, inclines towards material gain in the absence of a moral compass. This inclination is aptly captured in the verse: “And you love wealth with immense love” and another verse: “And when your Lord said to the angels, ‘Indeed, I will make upon the earth a successive authority.’ They said, ‘Will You place upon it one who causes corruption therein and sheds blood, while we declare Your praise and sanctify You?’ He said, ‘Indeed, I know that which you do not know.’”

It is evident that corruption conflicts with the concept of human stewardship on earth. The acts of corruption we witness today reflect humanity's rebellion against moral values, especially in light of modern developments that entice individuals and embolden them to commit acts of corruption using advanced tools that give them a false sense of superiority and invulnerability. This situation has compelled governments and the international community to establish international agreements and enact domestic laws to confront the phenomenon.

One of the most prevalent crimes that societies and nations have faced since ancient times, significantly contributing to the weakening of their economies, is bribery. Recognized as one of the most dangerous crimes disrupting the proper functioning of governmental administration, bribery undermines trust between rulers and the governed. Since independence, the Algerian legislator has sought to issue legal provisions within Ordinance No. 66-156 of the Penal Code, criminalizing bribery as a crime that erodes the economy and destabilizes society. However, due to its evolution, its deviation from its original form, its increasing complexity, and its escalation into a major corruption hub, bribery has become a focal point in the fight against corruption.

Section One: The Concept of Bribery and the Reasons for Its Criminalization in the Private Sector

The inability of the Penal Code provisions to keep pace with developments and address emerging phenomena, combined with Algeria's ratification of the International Convention against Corruption, necessitated legislative intervention. This compelled the Algerian legislator to enact specific laws that reorganize the crime of bribery in alignment with the ongoing developments across various fields, particularly administrative and economic ones. Consequently, Law No. 06-01, amended and supplemented, was introduced. This law focuses on the prevention of corruption and combating it, encompassing a range of offenses, including bribery, which is the subject of this study.

First Requirement: The Concept of Bribery in the Private Sector and Its Domestic and International Impacts

The Algerian legislator did not define bribery in Article 40 of the Law on the Prevention and Combating of Corruption, merely mentioning the offender's status and the acts constituting the crime. This approach by the Algerian legislator is commendable. Consequently, jurisprudence has taken up the task of defining this crime, which falls within its scope of responsibility. Some have defined it as: “The deviation of an employee in performing their duties from the intended goal to achieve personal interests, which translates to illicit gains from their position.”¹ Others have defined it as: “An agreement between two parties, where

one offers the other a gift, promise, or benefit, which the other accepts in return for performing or abstaining from an act within their official duties.”²

First Branch: The Influence of the Unilateral and Bilateral Nature of Bribery on Its Concept

Both definitions are applicable to bribery in all its forms, whether in the public or private sector. In the private sector, bribery requires the presence of two parties: one being an employee, as defined by the Anti-Corruption Law, who requests or accepts promises or advantages, directly or indirectly, and another party who promises, grants, or offers gifts or advantages to the first party in exchange for performing or refraining from performing an act.

Historically, bribery was established when an offer met acceptance, or when an interested party offered an advantage to an employee.³ However, today, bribery can be established merely by offering a bribe, even if rejected by the other party, or by the bribee requesting an advantage, even if the briber refrains from providing it.⁴

What distinguishes bribery in the private sector is the requirement that the offender must be an employee or manager of a private sector entity or working there in any capacity. The crime directly impacts the service system, which distinguishes it from cases where the beneficiary of positive bribery differs.⁵

Following the example of some legislations, the Algerian legislator adopted a bilateral bribery system. Article 52 of the law on the Prevention and Combating of Corruption states: “The provisions concerning participation stipulated in the Penal Code apply to the crimes provided for in this law. Attempts to commit the crimes stipulated in this law are punishable as if they were completed crimes.”⁶

This bilateral system necessitates the presence of both positive and negative bribery crimes, where the act of the briber is independent⁷ and not considered as mere participation. Each form of bribery has distinct elements that allow for the existence of one without the other.

Criticism has been directed at the unilateral bribery system, which could allow the briber to evade punishment if the offer of a bribe was made but not accepted by the employee. Such behavior is classified as an attempt to participate. Similarly, criticism has been directed at the bilateral bribery system, arguing that it unnaturally divides a single incident into two crimes an artificial fragmentation intended to avoid legal complications when one party does not respond to the other.⁸

For instance, when the briber promises, offers, or grants an advantage to the bribee, they initiate the proposal or accept the latter’s offer. In this case, it could be said that there is positive bribery. If the offer is accepted, the briber becomes less active than the bribee, as the briber’s action is limited to agreeing to the bribee’s demand.⁹

The legislator adopted the bilateral bribery system because it allows for the punishment of situations that cannot be penalized under the unilateral system. This is evident in the division of bribery crimes, whether in the public or private sector, into positive and negative bribery crimes.¹⁰

Second Branch: Domestic and International Impacts and the Adoption of Criminalizing Bribery in the Private Sector

The United Nations Convention Against Corruption was the first to address the criminalization of bribery in the private sector, as stipulated in Article 21 of the Convention.¹¹ Since Algeria has ratified this convention,¹² it became necessary for it to incorporate this into its domestic legislation. The Algerian legislator complied with this by introducing this type of crime in Law No. 06-01.¹³

Algeria's shift from a socialist economy to a market-based economy founded on market liberalization, reducing state control, and involving private entities in economic life by encouraging them to establish small and medium-sized national and foreign enterprises led to the emergence of a private sector. However, this sector has not been spared from the scourge of bribery, which can directly or indirectly impact the national economy. While some may argue that bribery facilitates services deserved by private companies and individuals alike, and secures lucrative government contracts, what a company perceives as a gain through bribery actually harms businesses overall. It creates an environment of unfair and unjust competition, imposes additional costs on businesses, undermines the rule of law, and reduces productive efficiency, as bribery becomes a means to achieve personal goals rather than fulfilling the economic objectives of the institution.

For these reasons, this crime was explicitly addressed in Article 40 of Law No. 06-01 on the Prevention and Combating of Corruption.¹⁴ This reflects the importance the legislator places on the private sector. The legislator deemed it necessary to intervene to protect the proper functioning of economic interests and ensure the integrity of private sector employees. Bribery in the private sector is considered one of the most serious crimes afflicting nations, given its profoundly negative impact on both the economic and social spheres.¹⁵

Second Requirement: Criminalizing Bribery in the Private Sector as an Initiative to Protect Public Funds

The adoption of the law on the prevention and combating of corruption, which includes the crime of bribery, was the result of several reasons that prompted the legislator to address it in a specific law.

First Branch: Bribery and Its Economic Impacts

To approach this topic, it is necessary to discuss the areas and manifestations of corruption from the perspective of criminal law. The Algerian legislator was not precise in defining corruption, instead considering it as: "all crimes stipulated in Chapter IV of this law." On the other hand, Article 2 of the Tunisian Framework Decree defines corruption as: "The misuse of authority, influence, or a position to obtain personal benefits. Corruption specifically includes bribery in all its forms in the public and private sectors, embezzlement or mismanagement of public funds, abuse of influence, exceeding or misusing authority, illicit enrichment, breach of trust, mismanagement of legal entities' funds, and money laundering."¹⁶

Second Branch: Protecting Public Funds and Adopting the Criminalization of Bribery in the Private Sector

One of the main reasons for criminalizing bribery, like other corruption-related crimes, is its classification as an economic crime, characterized by its dynamic nature. Such crimes evolve over time, across regions, and with the changing tools used to commit them. This obliges legislators to establish mechanisms that adapt to these developments, particularly given that criminal law is based on the principle of legality. Furthermore, such crimes are susceptible to change depending on a country's economic circumstances due to their direct connection to the financial and business sectors, which themselves are unstable and subject to transformation.

Another key reason that motivated the legislator to regulate these crimes in a specific law is their connection to both public and private funds. The legislator made an earnest attempt to introduce legal provisions aimed at reducing, even partially, the prevalence of bribery, which has alarmingly spread in society and become a significant concern for both citizens and the government.

The Anti-Corruption Law was thus introduced primarily to eliminate corruption in public life, particularly in cases of exploitation of public office and manipulation of public funds. It criminalized any actions that compromise the duty of integrity required of public employees, as well as any breaches of the trust obligations placed upon them. This reflects the legislator's commitment to safeguarding the economy and public resources while promoting ethical practices in both public and private sectors.

Section Two: Elements of the Crime of Bribery in the Private Sector

From Article 40 of the law on the Prevention and Combating of Corruption, it is evident that the crime of bribery in the private sector includes two distinct acts. The first, outlined in the first paragraph, constitutes positive bribery, while the second, detailed in the second paragraph, constitutes negative bribery.

First Requirement: The Briber's Act as a Form of Positive Bribery and Its Elements

The Algerian legislator criminalized the act of the briber, who offers money or an undeserved advantage to a manager, employee, or worker to induce them to perform or refrain from performing an act. This crime does not require the offender to hold a specific status, such as being a manager, employee, or worker. The legislator did not impose a specific status for the perpetrator of positive bribery.

First Branch: The Absence of Employee Status as a Presumed Element in Positive Bribery

The legislator referred to the offender in Article 40 of Law 06-01, as amended and supplemented, as: "Any person who promises, offers, or grants..." Thus, the legislator did not stipulate a specific status for the briber, making positive bribery applicable to all individuals.¹⁷ The briber may not necessarily belong to the service in question, nor must the briber themselves benefit from the act or omission requested of the employee. The benefit may instead be intended for another party, such as their child or spouse.¹⁸

Second Branch: The Positive Act as an Element in the Crime of Positive Bribery

The material element of positive bribery in the private sector is represented by a positive act from the briber, which takes the form of offering a gift, promise, or proposal to the bribee. For instance, the briber might hand an envelope containing money to the employee or verbally promise money in exchange for providing a service or benefit. This material element is divided into the following components:

First: The Criminal Act

The criminal act is established through the use of one of the following means:

1. **Promise:** A promise occurs when the briber assures the employee or manager in the private sector of an undeserved advantage in exchange for performing or abstaining from a specific act, thereby inducing them to breach their duties. The fulfillment of the briber's promise is irrelevant to the establishment of the crime, as the crime is complete upon making the promise. The promise's acceptance or rejection is also immaterial; the crime is established the moment the promise is made.¹⁹

For the crime to be established, the promise must meet the following conditions:

- **Seriousness:** The promise must be genuine and proportionate to the intended act.
- **Specificity:** The promise must be clear and well-defined.

If the promise is trivial or vague, the crime is not established.²⁰

2. **Offer:** An offer involves the briber's intent to provide an advantage to the bribee. This is an affirmative act where the briber demonstrates their intention to benefit the bribee in return for a desired outcome. The offer may be explicit or implicit, direct or indirect, as long as the circumstances indicate the presence of criminal intent. For example, leaving money on a manager's desk with the intent to bribe, but pretending it was left accidentally, constitutes an offer.²¹

The offer must meet the following conditions:

- **Seriousness:** The offer must be genuine and intended to incite the employee to breach their professional duties.
- **Form:** The legislator did not require the offer to take a specific form; it may be verbal or written.

3. Grant:

Granting occurs when the briber delivers or provides an advantage to the bribee. This can happen either:

- After the bribee requests it, in which case both positive and negative bribery crimes are established simultaneously.
- Voluntarily, without a prior request from the bribee. If the bribee accepts or rejects the advantage, the crime is established for the briber even in the case of rejection.

The briber may resort to promising, offering, or granting the advantage, whether directly or indirectly.²²

Second: The Beneficiary of the Bribe and Its Purpose

In the private sector, the beneficiary of the bribe may be the manager or employee, or it may even be another natural or legal person. The legislator did not differentiate between a benefit obtained by the bribee for themselves or for someone else in establishing the crime.

As for the purpose of the advantage, the briber must have a specific objective behind bribing the manager or employee for the penalties under Article 40 of Law 06-01 to apply. This article is explicit and clear, stipulating that the bribe must be offered or granted to induce the performance or omission of a specific act.²³

It is irrelevant whether the briber's intended objective is achieved; the crime is established even if the manager or employee rejects the offer.²⁴

Third Branch: The Crime of Positive Bribery and Its Mental Element

The criminal intent of the briber must be established, encompassing two elements: knowledge and intent, for the crime to be complete. Regarding knowledge, the briber must be aware that they are dealing with a manager or employee within a private-sector entity, meaning they must recognize the status of the bribee.²⁵ Additionally, the briber must understand that the advantage offered is intended as compensation for the bribee's misuse of their position. If the briber believes they are interacting with someone other than a manager or employee²⁶ or assumes that what they provided was repayment of a debt or payment of legitimate fees owed, the criminal intent is absent due to the lack of knowledge.

Moreover, the briber's intent must be directed toward bribing the manager or employee in the private sector to influence their actions. This intent must be deliberate and free; if the briber acts under threat or coercion, thereby lacking free will, the criminal intent cannot be established. The briber's objective must also be specific and well-defined, aimed at achieving a particular action.²⁷

Second Requirement: The Act of the Bribee as a Form of Negative Bribery

Negative bribery refers to the act of the bribee, who either manages a private-sector entity or works there in any capacity, accepting an undeserved advantage directly or indirectly, either for themselves or for another person or entity. This acceptance is made with the intention of performing or refraining from performing an act that constitutes a breach of their duties.

The crime of negative bribery consists of three essential elements:

1. Presumed Element: The status of the offender as a manager or employee in a private-sector entity.
2. Material Element: The act of accepting an undeserved advantage, whether directly or indirectly, for personal benefit or for the benefit of others.
3. Mental Element: The intent to breach duties in exchange for the advantage.

First Branch: Establishing the Status of the Employee as a Presumed Element in the Crime of Negative Bribery in the Private Sector

Bribery is one of the crimes that requires the perpetrator to have a specific status, namely that the individual must act within the scope of their duties in the private sector.²⁸

First: Employee Status

This crime requires the perpetrator to be a manager in the private sector or employed there in any capacity.²⁹ This status necessitates a subordinate relationship between the perpetrator and the employer, whether this subordination is permanent or temporary, and the work must be remunerated.³⁰

The term "entity" refers to a group of physical components or a collection of natural or legal persons organized to achieve a specific objective. This crime also applies to individuals working for themselves if they request or receive an advantage to perform or refrain from performing a particular act.³¹ The legislator did not limit the definition of an entity to economic, financial, or commercial fields, leaving the scope open. This flexibility allows the application of this crime to anyone managing or working in an entity.

Second: The Employee's Jurisdiction Over the Requested Act

The legislator did not merely require the individual to be an employee; they must also have jurisdiction over the act requested by the briber. The source of this jurisdiction may be defined by law, regulatory texts, or internal policies, and it can also be established through an individual administrative decision issued by a competent authority, whether verbal or written. The essential criterion is that the manager or employee exploits their position for personal gain within the scope of their jurisdiction or part of it.³²

Second Branch: The Positive Act as an Element in the Crime of Negative Bribery

The elements of the positive act in negative bribery consist of requesting or accepting an advantage with the promise to perform or abstain from an action without the knowledge and consent of the person in need. This act involves specific activities and objectives aimed at achieving a certain purpose, which results in a breach of duties.³³ The three elements of the material component of the crime of negative bribery are as follows:

First: The Criminal Act

This act is represented by the employee's unlawful request for or acceptance of an advantage, promise, gift, or any other benefit in exchange for performing or refraining from an act within their jurisdiction without the knowledge of the employer.³⁴

1. The Bribee's Intent to Request Compensation:

This involves the bribee's intention to request compensation in the future for performing or refraining from an act. The crime is complete upon the request, even if the person in need does not respond or promptly informs the authorities. The purpose of criminalizing this behavior is to

protect the integrity of private-sector work entrusted to the manager or employee, as well as to safeguard interactions among individuals.³⁵

2. The Bribee's Intent to Receive Compensation:

This involves the bribee's intention to receive compensation in the future for performing or refraining from an act. This occurs when there is a serious and apparent offer from the interested party, and the employee's acceptance is equally serious. If the offer lacks seriousness and the employee still accepts, the crime of bribery is not established.³⁶ The expression of serious acceptance can be through gestures, implicitly, verbally, or in writing. This is evident from the wording of Article 40 of Law No. 06-01, which states: "... requests or accepts, directly or indirectly, an undue advantage...".

Second: The Advantage as the Object of the Criminal Act

The advantage refers to a gift, promise, benefit, favor, or anything else of material or moral value, such as money or other valuables. The legislator has broadly defined the advantage in terms of its nature, forms, and method of receipt.

1. Nature and Forms of the Advantage:

The advantage may be material, such as money, checks, bills of exchange, opening a bank account for the benefit of the bribee, or settling a debt owed by the bribee. It may also be moral, improving the bribee's position compared to before, as a result of the briber's actions, such as securing a promotion for the employee or one of their relatives. The advantage may be explicit and apparent, such as lending a car, or implicit and concealed, such as renting a residence without charging rent.

The advantage may also be lawful or unlawful, such as drugs or an evening in a nightclub.³⁷ Additionally, the advantage does not need to be specifically defined; it is sufficient that it is determinable.³⁸

2. The Employee Benefiting from the Bribe:

The beneficiary of the advantage may be the manager or employee receiving the bribe in exchange for performing or refraining from an act that falls within their duties. However, the advantage may also be offered to a third party, such as a relative, spouse, or friend. In such cases, the bribee cannot use the argument in court that the request was not for their personal benefit.

Third: The Purpose of Bribery

The purpose of bribery is for the bribee to perform or refrain from performing an act that harms the reputation of the employer and their institution.

1. Performing or Refraining from an Act:

This refers to tasks directly required by the nature of the job.³⁹ Performing the act involves taking a positive action that fulfills the interest of the person in need.⁴⁰ Alternatively, it may involve a

negative action, such as refraining from carrying out a duty. This refraining may be partial, such as delaying the completion of a task if the interest requires the delay.

2. Breaching Work Duties to Cause Harm:

This occurs when the act is performed in violation of the law.⁴¹ The intent is to cause material or moral harm to the employer or the interests of the organization. This presupposes that the employer is unaware of the act; if the employer is aware, the crime is not established.⁴²

Third Branch: Negative Bribery and Its Mental Element

Bribery in the private sector is an intentional crime requiring the presence of criminal intent.

First: Criminal Intent in the Crime of Negative Bribery
The criminal intent consists of two elements:

1. Knowledge:

The bribee must have knowledge of all the elements of the crime. Specifically, they must be aware that they are a manager or employee in the private sector⁴³, that they are authorized to perform the requested task, and that the benefit they requested in exchange for their work is undeserved. This awareness must exist at the time of the request or acceptance. If knowledge is absent, criminal intent is not established.⁴⁴

Criminal intent is also negated if the employer is aware of and consents to the act. Additionally, intent is absent if the employee is unaware of their appointment, mistakenly believes they have been dismissed, assumes they are unauthorized to perform the task, or believes the benefit was offered for an innocent purpose rather than as compensation for their work.

2. Will:

The will to commit the act that constitutes the crime must be present, specifically the employee's intent to request or accept the benefit. Intent is negated if the benefit is secretly placed in the employee's pocket or desk by the person in need. Furthermore, the employee's will must be directed toward seizing the benefit with the intention of ownership or utilization.⁴⁵

Second: Criminal Intent and the Moment of Bribery in the Crime of Negative Bribery
Criminal intent must exist at the moment of the request or acceptance.

1. Moment of Bribery in the Case of a Request:

It must be proven that at the time the benefit was requested, the bribee intended to exploit their position. If it is shown that the benefit was requested as a loan and the creditor later presented a matter of interest, which the bribee handled, the crime of bribery is not established.

2. Moment of Bribery in the Case of Acceptance:

It must be established that the bribee was aware of exploiting their position at the time of acceptance. If the acceptance was not associated with this awareness, the crime of bribery is not established, even if the employee subsequently performed a task related to their position.⁴⁶

Conclusion:

The private sector represents a significant financial resource, contributing substantially to the national economy. Therefore, it was essential for the Algerian legislator to prioritize this sector by introducing specific legislation in alignment with the International Convention Against Corruption. This legislation aims to address the excessive spread and alarming prevalence of bribery, which negatively impacts private-sector entities considered fundamental pillars of national development and key components of a market economy.

Efforts must be intensified to combat this phenomenon by promoting transparency within the private sector and establishing standards and procedures to maintain the integrity of its entities, such as employee codes of conduct. Additionally, the state should establish regulatory bodies within private-sector institutions, while enhancing and developing legal and administrative measures to curb bribery in this sector.

It is also necessary to adopt and reinforce employment systems for private-sector staff based on principles of competence, transparency, and objective criteria such as merit, fairness, and eligibility. Appropriate measures should be implemented for selecting and training individuals to assume positions particularly vulnerable to corruption, ensuring the rotation of such roles when necessary. Furthermore, adequate salaries must be encouraged, with fair wage scales that consider the country's level of economic development.

Educational and training programs should also be promoted to enable employees to meet the requirements of ethical and effective job performance. Specialized training should be provided to raise awareness about the risks of corruption associated with their duties, fostering a deeper understanding of the importance of maintaining integrity and professionalism in the private sector.

References

1. Fetouh Abdullah Al-Shazly, *Explanation of Criminal Law: Special Section*, University Publications House, Alexandria, 1998.
2. Abdullah Suleiman, *Lessons in Explaining Algerian Criminal Law: Special Section*, University Publications Bureau, Algeria, 1998.
3. Khadija Amiour, *Crimes of Corruption in the Private Sector Under Algerian Legislation*, Master's Thesis, Faculty of Law and Political Science, Kasdi Merbah University, Ouargla, 2012.
4. Mansour Rahmani, *The Criminal Law of Finance and Business, Part One*, Dar Al-Uloom for Publishing and Distribution, Annaba, 2012.

5. Ahmed Mohamed Khalil, High State Security Crimes, University Modern Office, Egypt, no publication year.
6. Presidential Decree No. 04-128 dated April 19, 2004, Official Gazette No. 26, published on April 25, 2004.
7. Law No. 06-01 on the Prevention and Combating of Corruption, dated February 20, 2006, Official Gazette No. 14, published on March 8, 2006, amended by Ordinance No. 10-05 dated August 26, 2010, Official Gazette No. 50, published on September 1, 2010, and further amended by Law No. 11-15 dated August 2, 2011, Official Gazette No. 44, published on August 10, 2011.
8. Djabari Abdel Majid, Legal Studies in Criminal Material in Light of Major New Amendments, Dar Houma, Algeria, 2012.
9. Framework Decree No. 120 of 2011, dated November 14, 2011.
10. Ahsan Bousqi'a, The Concise in Special Criminal Law, Part Two, 13th Edition, Dar Houma, Algeria, 2013.
11. Jalal Tharwat and Ali Al-Qahwaji, Criminal Law: Special Section, University Publications House, Alexandria, 2011.
12. Ahsan Bousqi'a, The Concise in Special Criminal Law, Part Two, 9th Edition, Dar Houma, Algeria, 2008.
13. Ramsis Behnam, Special Section in Criminal Law: Crimes Against State Security, Bribery, Embezzlement, Fraud, Forgery, and Offenses Against Public Interest, Mansha'at Al-Maaref, Alexandria, no publication year.
14. Abdel Razzaq Zweena, The Crime of Bribery in Algerian Criminal Law, Postgraduate Diploma, Criminal Sciences Branch, Institute of Law, University of Algiers, 1976.
15. Abdel Hamid Al-Shawarbee, Thematic Commentary on Criminal Law, Book Two, Mansha'at Al-Maaref, Alexandria, 2003.
16. Saeed Youssef Mohamed Youssef, The Crime of Bribery, The Algerian Journal of Legal, Economic, and Political Sciences, Vol. 39, Issue 04, Faculty of Law and Administrative Sciences, University of Algiers, 2001.
17. The private sector is defined as all institutions subject to individual capital, without state ownership or involvement.
18. Ahmed Abu Al-Rous, Crimes of Forgery, Counterfeiting, Bribery, and Embezzlement of Public Funds Law, University Modern Office, Alexandria, 1997.
19. Fetouh Abdullah Al-Shazly, Explanation of Criminal Law: Special Section, University Publications House, Alexandria, 2005.

20. Mohamed Zaki Abu Amer, *Criminal Law: Special Section*, New University House, Alexandria, 2007.
21. Saadi Haidra, *How the Algerian Legislator Addressed the Crime of Bribery in Law No. 06-01 of February 20, 2006 on the Prevention and Combating of Corruption*, Legal Research Journal, Issue One, Faculty of Law, Bejaia, 2010.
22. Fetouh Abdullah Al-Shazly, *Crimes Harming Public Interest in Egyptian Law*, no publisher, Alexandria, 1991.
23. Fetouh Abdullah Al-Shazly, *Explanation of Criminal Law: Special Section*, no publisher, Alexandria, 2003.

Endnotes:

¹Fetouh Abdullah Al-Shazly, *Explanation of Criminal Law: Special Section*, University Publications House, Alexandria, 1998, p. 61.

² Abdullah Suleiman, *Lessons in Explaining Algerian Criminal Law: Special Section*, University Publications Bureau, Algeria, 1998, p. 61.

³ Khadija Amieur, *Crimes of Corruption in the Private Sector Under Algerian Legislation*, Master's Thesis, Faculty of Law and Political Science, Kasdi Merbah University, Ouargla, 2012, p. 11.

⁴ Mansour Rahmani, *The Criminal Law of Finance and Business, Part One*, Dar Al-Uloom for Publishing and Distribution, Annaba, 2012, p. 60.

⁵ Article 02 of Law No. 06-01 on the Prevention and Combating of Corruption states: "...any other person defined as a public official or equivalent according to applicable legislation and regulations."

⁶ Article 52 of Law No. 06-01 on the Prevention and Combating of Corruption, dated February 20, 2006, Official Gazette No. 14, published on March 8, 2006, amended by Ordinance No. 10-05 dated August 26, 2010, Official Gazette No. 50, published on September 1, 2010, and further amended by Law No. 11-15 dated August 2, 2011, Official Gazette No. 44, published on August 10, 2011.

⁷ Ahmed Mohamed Khalil, *High State Security Crimes*, University Modern Office, Egypt, no publication year, p. 137.

⁸ Mansour Rahmani, *The Criminal Law of Finance and Business*, previously cited reference, p. 61.

⁹ Khadija Amieur, *Crimes of Corruption in the Private Sector Under Algerian Legislation*, previously cited reference, p. 16.

¹⁰ Mansour Rahmani, *The Criminal Law of Finance and Business*, previously cited reference, p. 62.

¹¹ Article 21 of the United Nations Convention states: "Each State Party shall consider adopting such legislative and other measures as may be necessary to criminalize, when committed intentionally in the course of economic, financial, or commercial activities:

(a) The promise, offering, or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private-sector entity, for the person himself or herself or for another person, in order that the person should act or refrain from acting in breach of his or her duties.

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private-sector entity, for the person himself or herself or for another person, in order that the person should act or refrain from acting in breach of his or her duties."

¹² Algeria ratified the United Nations Convention with reservations under Presidential Decree No. 04-128 dated April 19, 2004, Official Gazette No. 26, published on April 25, 2004.

¹³Law No. 06-01 on the Prevention and Combating of Corruption, dated February 20, 2006, Official Gazette No. 14, published on March 8, 2006, amended by Ordinance No. 10-05 dated August 26, 2010, Official Gazette No. 50, published on September 1, 2010, and further amended by Law No. 11-15 dated August 2, 2011, Official Gazette No. 44, published on August 10, 2011.

¹⁴Article 40 of Law No. 06-01, previously cited reference.

¹⁵Djabari Abdel Majid, Legal Studies in Criminal Material in Light of Major New Amendments, Dar Houma, Algeria, 2012, p. 129.

¹⁶Framework Decree No. 120 of 2011, dated November 14, 2011.

¹⁷Ahsan Bousqi'a, The Concise in Special Criminal Law, Part Two, 13th Edition, Dar Houma, Algeria, 2013, p. 97.

¹⁸Jalal Tharwat and Ali Al-Qahwaji, Criminal Law: Special Section, University Publications House, Alexandria, 2011, p. 69.

¹⁹Ahsan Bousqi'a, The Concise in Special Criminal Law, Part Two, 9th Edition, Dar Houma, Algeria, 2008, p. 69.

²⁰Ramsis Behnam, Special Section in Criminal Law: Crimes Against State Security, Bribery, Embezzlement, Fraud, Forgery, and Offenses Against Public Interest, Mansha'at Al-Maaref, Alexandria, no publication year, p. 145.

²¹Khadija Amieur, previously cited reference, p. 65.

²²Khadija Amieur, same reference, p. 36.

²³Article 40 of Law No. 06-01 on the Prevention and Combating of Corruption.

²⁴Abdel Razzaq Zweena, The Crime of Bribery in Algerian Criminal Law, Postgraduate Diploma, Criminal Sciences Branch, Institute of Law, University of Algiers, 1976, p. 96.

²⁵Abdel Hamid Al-Shawarbee, Thematic Commentary on Criminal Law, Book Two, Mansha'at Al-Maaref, Alexandria, 2003, p. 287.

²⁶Ali Abdel Qader Al-Qahwaji, previously cited reference, p. 60.

²⁷Saeed Youssef Mohamed Youssef, The Crime of Bribery, The Algerian Journal of Legal, Economic, and Political Sciences, Vol. 39, Issue 04, Faculty of Law and Administrative Sciences, University of Algiers, 2001, p. 58.

²⁸The private sector is defined as all institutions owned by individuals' capital, without any share or involvement by the state.

²⁹Khadija Amieur, previously cited reference, p. 21.

³⁰Ahmed Abu Al-Rous, Law on Crimes of Forgery, Counterfeiting, Bribery, and Embezzlement of Public Funds, University Modern Office, Alexandria, 1997, p. 106.

³¹Ahsan Bousqi'a, The Concise in Special Criminal Law, 13th Edition, previously cited reference, p. 96.

³²Abdullah Suleiman, previously cited reference, p. 73.

³³Fetouh Abdullah Al-Shazly, Explanation of Criminal Law: Special Section, University Publications House, Alexandria, 2005, p. 132.

³⁴Mohamed Zaki Abu Amer, Criminal Law: Special Section, New University House, Alexandria, 2007, p. 129.

³⁵Khadija Amieur, previously cited reference, p. 23.

³⁶Jalal Tharwat and Ali Al-Qahwaji, previously cited reference, p. 40. and Saadi Haidra, How the Algerian Legislator Addressed the Crime of Bribery in Law No. 06-01 of February 20, 2006 on the Prevention and Combating of Corruption, Legal Research Journal, Issue One, Faculty of Law, Bejaia, 2010, p. 57.

³⁷ Saadi Haidra, previously cited reference, p. 59.

³⁸Jalal Tharwat and Ali Al-Qahwaji, previously cited reference, p. 47.

³⁹Fetouh Abdullah Al-Shazly, Crimes Harmful to Public Interest in Egyptian Law, no publisher, Alexandria, 1991, p. 67.

⁴⁰ Jalal Tharwat and Ali Al-Qahwaji, previously cited reference, p. 51.

⁴¹Saadi Haidra, previously cited reference, p. 62.

⁴²Fetouh Abdullah Al-Shazly, Explanation of Criminal Law: Special Section, no publisher, Alexandria, 2003, p. 139. 1112

⁴³Ahsan Bousqi'a, *The Concise in Special Criminal Law*, previously cited reference, p. 53.

⁴⁴Fetouh Abdullah Al-Shazly, *Explanation of Criminal Law: Special Section*, previously cited reference, p. 142.

⁴⁵Ali Abdel Qader Al-Qahwaji, previously cited reference, p. 499.

⁴⁶Ahsan Bousqi'a, *The Concise in Special Criminal Law*, 14th Edition, previously cited reference, p. 84.